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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,245	10/11/2000	David Wayne Kelleher	G&C 139.142-US-U1	7831

22462 7590 06/13/2003

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EXAMINER

IQBAL, KHAWAR

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/689,245

Applicant(s)

KELLEHER, DAVID WAYNE

Examiner

Khawar Iqbal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 04. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9,11-23,25-37,38-42 are rejected under 35 U.S.C. 102(e) as being unpatentable by Aravamudan et al (6301609).

3. Regarding claims 1 and 2 Aravamudan et al teaches a method for enabling cellular instant messaging comprising (abstract):

receiving a telemetry message that indicates the availability on a cellular network of a first cellular phone (col. 7, lines 20-65);

storing information regarding the first cellular phone in an instant messaging database, wherein the information comprises a buddy list (col.4, lines 30-45, col. 6, lines 10-30, col. 9, lines 55-65); and

transmitting a browser alert to one or more relevant buddies identified in the buddy list (col.7 lines 1-40, col. 8, lines 35-45, col. 8, line 60-col. 9, line 25).

Regarding claims 3,4,13,14,17,18,27,28,31,32 and 40,41 Aravamudan et al teaches wherein the telemetry message is a registration notification message and the telemetry message further indicates that a cellular phone has been powered on and the

information further comprises a customer's profile for the cellular phone (col. 2, lines 25-45 and see above).

Regarding claims 5-7, 19-21, 33-35 and 42 Aravamudan et al teaches wherein the instant messaging database is maintained by an instant messaging partner (col. 4, lines 30-45, col. 6, lines 10-65, see above).

Regarding claims 8, 9, 22, 23 and 36, 37 Aravamudan et al teaches wherein the one or more relevant buddies comprise buddies on the first cellular phone's buddy list and wherein the one or more relevant buddies comprise computers connected to the Internet (col. 6, lines 10-65, see above).

Regarding claims 11 and 12 Aravamudan et al teaches a method for enabling cellular instant messaging comprising (abstract):

transmitting, from a first cellular phone, a telemetry message that indicates the first cellular phone's availability on a cellular network (col. 6, lines 10-45, col. 9, lines 55-65);

receiving a browser alert, on the first cellular phone, indicating availability of buddies on a buddy list of the first cellular phone (col. 7 lines 1-40, col. 8, lines 35-45, col. 8, line 60-col. 9, line 25).

Regarding claims 15 and 16 Aravamudan et al teaches a system for enabling cellular instant messaging comprising (abstract):

an instant messaging database configured to maintain information regarding a first cellular phone, wherein the information comprises a buddy list (col. 4, lines 30-45, col. 6, lines 10-30, col. 9, lines 55-65);

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a cellular network; and a server configured to:

receive a telemetry message from a cellular phone that indicates the availability of the first cellular phone on the cellular network (col.7, lines 20-65); and

transmit a browser alert to one or more relevant buddies identified in the buddy list (col. 7 lines 1-40, col. 8, lines 35-45, col. 8, line 60-col. 9, line 25).

Regarding claims 25 and 26 Aravamudan et al teaches a system for enabling cellular instant messaging comprising a first cellular phone configured to (abstract):

transmit a telemetry message that indicates the first cellular phone's availability on a cellular network (col. 6, lines 10-45, col. 9, lines 55-65);

receive a browser alert indicating availability of buddies on a buddy list of the first cellular phone (col. 4, lines 30-45, col. 6, lines 10-30, col. 9, lines 55-65).

Regarding claims 29 and 30 Aravamudan et al teaches an article of manufacture comprising a program storage medium readable by a computer hardware device and embodying one or more instructions executable by the computer hardware device to perform a method for enabling cellular instant messaging, the method comprising (abstract):

receiving a telemetry message that indicates the availability on a cellular network of a first cellular phone (col. 7, lines 20-65);

storing information regarding the first cellular phone in an instant messaging database, wherein the information comprises a buddy list (col. 4, lines 30-45, col. 6, lines 10-30, col. 9, lines 55-65); and

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transmitting a browser alert to one or more relevant buddies identified in the buddy list (col. 4, lines 30-45, col. 6, lines 10-30, col. 9, lines 55-65).

Regarding claims 39 and 40 Aravamudan et al teaches an article of manufacture comprising a program storage medium readable by a computer hardware device and embodying one or more instructions executable by the computer hardware device to perform a method for enabling cellular instant messaging, the method comprising (abstract):

transmitting, from a first cellular phone, a telemetry message that indicates the first cellular phone's availability on a cellular network (col. 6, lines 10-45, col. 9, lines 55-65);

receiving a browser alert, on the first cellular phone, indicating availability of buddies on a buddy list of the first cellular phone (col. 7 lines 1-40, col. 8, lines 35-45, col. 8, line 60-col. 9, line 25).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10,24,38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aravamudan et al (6301609) and further in view of Godlewski (6421354).

Regarding claims 10,24 and 39 Aravamudan et al does not specifically teach utilizing a short message service to deliver text messages using the cellular phone. On the other

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hand, Godlewski from the same field of endeavor discloses utilizing a short message service to deliver text messages using the cellular phone (col. 14, lines 1-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Aravamudan et al by specifically adding short message service for the purpose of increasing efficiency of the system taught by Godlewski.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Szymansky (6557029), Appelman et al (6539421), Ogle et al (6430604) teach instant messaging.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is 703-306-3015.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Dwayne Bost**, can be reached at 703-305-4778.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2684 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

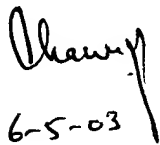
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Khawar Iqbal


6-5-03


ERIKA GARY
PATENT EXAMINER